

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
EASTERN DIVISION**

United States of America,	)	
	)	
Plaintiff,	)	<b>ORDER DENYING APPEAL FROM</b>
	)	<b>MAGISTRATE JUDGE’S ORDER</b>
vs.	)	
	)	
Rhawnie Marcellais,	)	Case No. 3:23-cr-33
	)	
Defendant.	)	

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Defendant Rhawnie Marcellais appeals the March 30, 2023, order denying her motion for release from custody (Doc. No. 19) by United States Magistrate Judge Alice R. Senechal. Doc. No. 21. The United States opposes the appeal. Doc. No. 26. Marcellais replied. Doc. No. 31.

Marcellais was ordered detained pending trial by Judge Senechal after a detention hearing on March 9, 2023. Doc. Nos. 14, 15. Judge Senechal ordered, “At this time, RRC [residential re-entry center] placement is the least restrictive alternative available to reasonably assure the safety of the alleged victim. [Marcellais] will be allowed release to an RRC when funding for that placement is available.” Doc. No. 15. However, Judge Senechal explained that if Marcellais completed an evaluation for placement at an alternative facility, the Court may consider release to a treatment facility. Doc. No. 14. On March 29, Marcellais filed a motion for release from custody, asserting that she “has been able to develop an appropriate alternative to Residential Re-entry Placement in that she was accepted into a sober living house” in Minot, North Dakota. Doc. No. 19. Judge Senechal denied the motion, explaining “[t]he pretrial services officer opposes the motion, based on the agency’s past experience with the facility.” Doc. No. 21. Marcellais appeals that decision.

A district court reviews a magistrate judge's order of detention de novo. See 18 U.S.C. § 3145(b); United States v. Maull, 773 F.2d 1479, 1481 (8th Cir. 1985) (en banc). Having independently reviewed the nature and circumstances of the offenses at issue, the weight of the evidence against Marcellais, her history and characteristics, and the nature and seriousness of the danger to the community by her release, the Court agrees with Judge Senehal's decision to deny release to the particular facility requested by Marcellais. However, this order does not preclude Marcellais from filing another motion seeking release to an approved facility. See Doc. No. 21.

After careful review, Marcellais's appeal (Doc. No. 23) is **DENIED**. She will remain in custody pending trial or until RRC placement is available at an approved facility.

**IT IS SO ORDERED.**

Dated this 1st day of May, 2023.

/s/ Peter D. Welte  
Peter D. Welte, Chief Judge  
United States District Court